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MESSAGE

Attached is an Examiner's Amendment approved by Philip Hoffmann (Reg. No. 46,340) to be entered in this matter.

Thank you.

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PROPOSED EXAMINER'S AMENDMENT

1. (Currently Amended) A method of enabling a client to access content, the method comprising:

receiving, on a client, an instruction from a client application indicating a client request to access content;

accessing, by the client application and on the client, a list of content sources capable of rendering the content for which access is requested by the client;

requesting, using the client application on the client, identical portions of the content from each of the content sources in the list of the content sources;

measuring a first performance metric for a first content source of the content sources based on the identical portion received from the first content source;

measuring a second performance metric for a second content source of the content sources based on the identical portion received from the second content source;

~~determining, using the client application on the client and based on requesting the identical portions of the content, a performance metric describing an ability for the content source to support the client as measured by the client between each of the at least two of the content sources;~~

comparing the first performance metric and the second performance metric ~~performance metrics for the content sources~~;

selecting, using the client application on the client, among the content sources based on the comparison ~~of the performance metrics for the content sources~~ to identify a content source to be accessed by the client; and

rendering, using the client application on the client, the identical portion of the accessed content and a subsequent portion of content that follows the identical portion of the accessed content from the selected content source.

2. (Original) The method of claim 1 further comprising accessing the content source selected.

3. (Original) The method of claim 1 further comprising monitoring communications exchanged with the content source selected to determine a selected connection state to determine if an alternate content source should be accessed.

4. (Currently Amended) The method of claim 3 further comprising repeating the ~~determining~~ measuring and selecting when the selected connection state indicates that the alternate content source should be accessed.

5. (Original) The method of claim 3 further comprising monitoring the state of at least one of the content sources not selected from within the list of content sources so that the alternate content source may be selected when the connection state indicates the alternate content source should be accessed.

6. (Currently Amended) The method of claim 1 wherein receiving the list of content sources ~~includes~~ comprises receiving the list of content sources from a host.

7. (Original) The method of claim 6 wherein the list of content sources is received in response to authenticating.

8. (Currently Amended) The method of claim 1 wherein ~~determining~~ measuring the first performance metric and the second performance metric comprises ~~includes~~ polling at least ~~two of the content sources~~ the first content source and the second content source with a polling request.

9. (Currently Amended) The method of claim 8 wherein ~~polling at least two of the content sources includes~~ a polling comprises transmitting a stream request to each of the content sources in the list of content sources.

10. (Currently Amended) The method of claim 8 wherein ~~determining~~ measuring the first performance metric and the second performance metric ~~includes~~ comprises identifying [[a]] the first content source with a response to the polling request that is received before a response to the polling request from the second content source ~~other responses from other content sources included in the list of content sources~~.

11. (Currently Amended) The method of claim 1 wherein ~~determining~~ measuring the first performance metric ~~includes~~ comprises identifying that the [[a]] first content source is able to sustain an identified throughput rate.

12. (Currently Amended) The method of claim 11 wherein identifying that the first content source is able to sustain the identified throughput rate ~~includes~~ comprises identifying that the first content source is able to sustain the identified throughput rate for a specified duration.

13. (Currently Amended) The method of claim 1 wherein ~~determining~~ measuring the first performance metric and the second performance metric comprises ~~includes~~ identifying the content source with a highest throughput rate.

14. (Currently Amended) The method of claim 1 wherein ~~determining~~ measuring the first performance metric and the second performance metric comprises ~~includes~~ ranking at least the first content source and the second content sourcre ~~two of the content sources~~.

15. (Original) The method of claim 14 further comprising using the ranking to select a backup content source to be accessed when the content source selected for access experiences an interrupt condition.

16. (Original) The method of claim 14 further comprising maintaining a relative ranking among at least two of the content sources not selected by transmitting subsequent polling requests to the content sources not selected.

17. (Original) The method of claim 14 further comprising establishing and maintaining a connection to one or more of the content sources not selected from among the list while accessing the content source selected.

18. (Original) The method of claim 14 further comprising switching to one of the content sources not selected from the list when access to the content source selected is determined to be inferior to access available using the content source that is accessed.

19. (Currently Amended) A content access system comprising: a client with a processor that comprises:

a content access code segment structured and arranged to receive an instruction from a client application indicating a client request to access content;

a source selection code segment structured and arranged to:

access, by the client application, a list of content sources capable of rendering the content for which access is requested by the client, and

request, using the client application on the client, identical portions of the content from each of the content sources in the list of the content sources;

a ~~communications interface~~ measurement code segment structured and arranged to (i) measure a first performance metric for a first content source of the content sources based on the identical portion received from the first content source and (ii) measure a second performance metric for a second content source of the content sources based on the identical portion received from the second content source; ~~determine, using the client application on the client and based on requesting the identical portions of the content, a performance metric describing an ability for the content source to support the client as measured by the client between each of the at least two of the content sources~~; and

a selection code segment structured and arranged to:

compare the first performance metric and the second performance metric ~~the performance metrics for the content sources~~;

select, using the client application on the client, among the content sources based on the comparison ~~of the performance metrics for the content sources~~ to identify a content source to be accessed by the client; and

a rendering code segment structured and arranged to render, using the client application on the client, the identical portion of the accessed content and a subsequent portion of content that follows the identical portion of the accessed content from the selected content source.

20. (Original) The content access system of claim 19 further comprising a retrieval code segment structured and arranged to access the content source selected.

21. (Original) The content access system of claim 19 further comprising a first monitoring code segment structured and arranged to monitor communications exchanged with the content source selected to determine a selected connection state to determine if an alternate content source should be accessed.

22. (Currently Amended) The content access system of claim 21 further comprising a repeating code segment structured and arranged to repeat ~~determining~~ measuring and selecting operations when the selected connection state indicates that the alternate content source should be accessed.

23. (Original) The content access system of claim 21 further comprising a second monitoring code segment structured and arranged to monitor the state of at least one of the content sources not selected from within the list of content sources so that the alternate content source may be selected when the connection state indicates the alternate content source should be accessed.

24. (Original) The content access system of claim 19 wherein the source selection code segment is structured and arranged to receive the list of content sources from a host.

25. (Previously Presented) The content access system of claim 24 wherein the source selection code segment is structured and arranged to receive the list of content sources in response to authenticating.

26. (Currently Amended) The content access system of claim 19 ~~wherein the~~ further comprising a communications interface [[is]] structured and arranged to transmit a polling request to at least two of the content sources in the list of content sources.

27. (Previously Presented) The content access system of claim 26 wherein the communications interface is structured and arranged to transmit a stream request to each of the content sources in the list of content sources.

28. (Currently Amended) The content access system of claim 26 wherein the ~~communications interface~~ measurement code segment is structured and arranged to identify a ~~first~~ content source from the list of content sources whose ~~with a~~ response to a polling request [[that]] is received before other responses from other content sources included in the list of content sources.

29. (Currently Amended) The content access system of claim 19 wherein the ~~communications interface~~ measurement code segment is structured and arranged to identify a ~~first~~ content source from the list of content sources able to sustain an identified throughput rate.

30. (Currently Amended) The content access system of claim 29 wherein the ~~communications interface~~ measurement code segment is structured and arranged to identify a ~~first~~ content source from the list of content sources able to sustain the identified throughput rate for a specified duration.

31. (Currently Amended) The content access system of claim 19 wherein the ~~communications interface~~ measurement code segment is structured and arranged to identify [[the]] a content source from the list of content sources with a highest throughput rate.

32. (Currently Amended) The content access system of claim 19 wherein the ~~communications interface~~ measurement code segment is structured and arranged to rank at least two of the content sources.

33. (Currently Amended) The content access system of claim 32 wherein the ~~communications interface~~ measurement code segment is structured and arranged to use the ranking to select a backup content source to be accessed when the content source selected for access experiences an interrupt condition.

34. (Currently Amended) The content access system of claim 32 wherein the ~~communications interface~~ measurement code segment is structured and arranged to maintain a relative ranking among at least two of the content sources not selected by transmitting subsequent polling requests to the content sources not selected.

35. (Original) The content access system of claim 32 wherein the communications interface is structured and arranged to maintain a connection to one or

more of the content sources not selected from among the list while accessing the content source selected.

36. (Original) The content access system of claim 32 wherein the communications interface is structured and arranged to switch to one of the content sources not selected from the list when access to the content source selected is determined to be inferior to access available using the content source that is accessed.

37-45. (Cancelled)